

TITLE 39
HEALTH AND SAFETY

CHAPTER 63
DOMESTIC VIOLENCE CRIME PREVENTION

39-6301. SHORT TITLE. This chapter shall be known and may be cited as the "Domestic Violence Crime Prevention Act."

[39-6301, added 1988, ch. 341, sec. 1, p. 1013.]

39-6302. STATEMENT OF PURPOSE. For purposes of this chapter, the legislature adopts by reference the declaration of policy in section [39-5201](#), Idaho Code. Additionally, the legislature finds that a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families. Furthermore, research shows that domestic violence is a crime which can be deterred, prevented or reduced by legal intervention. Domestic violence can also be deterred, prevented or reduced by vigorous prosecution by law enforcement agencies and prosecutors and by appropriate attention and concern by the courts whenever reasonable cause exists for arrest and prosecution.

The purpose of this act is to address domestic violence as a serious crime against society and to assure the victims of domestic violence the protection from abuse which the law and those who enforce the law can provide.

It is the intent of the legislature to expand the ability of the courts to assist victims by providing a legal means for victims of domestic violence to seek protection orders to prevent such further incidents of abuse. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. It is the intent of the legislature to presume the validity of protection orders issued by courts in all states, the District of Columbia, United States territories and all federally recognized Indian tribes within the United States, and to afford full faith and credit to those orders. The provisions of this chapter are to be construed liberally to promote these purposes.

[39-6302, added 1988, ch. 341, sec. 1, p. 1013; am. 1989, ch. 136, sec. 1, p. 306; am. 1999, ch. 330, sec. 1, p. 888.]

39-6303. DEFINITIONS. (1) "Domestic violence" means the physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member, or of a minor child by a person with whom the minor child has had or is having a dating relationship, or of an adult by a person with whom the adult has had or is having a dating relationship.

(2) "Dating relationship," for the purposes of this chapter, is defined as a social relationship of a romantic nature. Factors that the court may consider in making this determination include:

- (a) The nature of the relationship;
- (b) The length of time the relationship has existed;
- (c) The frequency of interaction between the parties; and
- (d) The time since termination of the relationship, if applicable.

(3) "Family member" means spouses, former spouses and persons related by blood, adoption or marriage.

(4) "Family dwelling" is any premises in which the petitioner resides.

(5) "Foreign protection order" means a protection order issued by a tribunal of another state.

(6) "Household member" means persons who reside or have resided together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(7) "Judicial day" means any day upon which court business may be transacted as provided in sections [1-1606](#) and [1-1607](#), Idaho Code.

(8) "Protection order" means any order issued for the purpose of preventing violent or threatening acts or acts of harassment against, or contact or communication with, or physical proximity to, another person, where the order was issued:

(a) Pursuant to this chapter;

(b) In another jurisdiction pursuant to a provision similar to section [39-6306](#), Idaho Code; or

(c) In any criminal or civil action, as a temporary or final order (other than a support or child custody order), and where the order was issued in a response to a criminal complaint, petition or motion filed by or on behalf of a person seeking protection, and issued after giving notice and an opportunity to respond to the person being restrained.

(9) "Respondent" means the individual against whom enforcement of a protection order is sought.

[39-6303, added 1988, ch. 341, sec. 1, p. 1014; am. 1989, ch. 136, sec. 2, p. 306; am. 1999, ch. 330, sec. 2, p. 889; am. 2000, ch. 136, sec. 1, p. 355; am. 2002, ch. 213, sec. 1, p. 587; am. 2002, ch. 331, sec. 1, p. 937; am. 2003, ch. 16, sec. 9, p. 55.]

39-6304. ACTION FOR PROTECTION. (1) There shall exist an action known as a "petition for a protection order" in cases of domestic violence.

(2) A person may seek relief from domestic violence by filing a petition based on a sworn affidavit with the magistrates division of the district court, alleging that the person or a family or household member, whether an adult or a child, is the victim of domestic violence. Any petition properly filed under this chapter may seek protection for any additional persons covered by this chapter. A custodial or noncustodial parent or guardian may file a petition on behalf of a minor child who is the victim of domestic violence.

(3) A person's right to petition for relief under this chapter shall not be affected by that person's having left the residence or household to avoid abuse.

(4) The petition shall disclose the existence of any custody or any marital annulment, dissolution or separation proceedings pending between the parties, the existence of any other custody order affecting the children of the parties, and the existence of child protection or adoption proceedings affecting the children of any party.

(5) When the petitioner requests custody of any child, the petition shall disclose:

(a) The county and state where the child has resided for six (6) months immediately prior to the filing of the petition;

(b) The party or other responsible person with whom the child is presently residing; and

(c) The party or other responsible person with whom the child has resided for six (6) months immediately prior to the filing of the petition.

(6) A petition shall be filed in the county of the respondent's residence, the petitioner's residence, or where the petitioner is temporarily residing.

[39-6304, added 1988, ch. 341, sec. 1, p. 1014; am. 1989, ch. 136, sec. 3, p. 307; am. 2000, ch. 136, sec. 2, p. 356.]

39-6305. FEES WAIVED. No filing fee, service fee, hearing fee or bond shall be charged for proceedings seeking only the relief provided under this chapter.

[39-6305, added 1988, ch. 341, sec. 1, p. 1014.]

39-6306. HEARING ON PETITION FOR PROTECTION ORDER -- RELIEF PROVIDED AND REALIGNMENT OF DESIGNATION OF PARTIES. (1) Upon filing of a petition based upon a sworn affidavit for a protection order, the court shall hold a hearing to determine whether the relief sought shall be granted within fourteen (14) days. If either party is represented by counsel at a hearing seeking entry of a protection order, the court shall permit a continuance, if requested, of the proceedings so that counsel may be obtained by the other party. If the court finds that it is necessary for both parties to be represented by counsel, the court shall enter appropriate orders to ensure that counsel is retained. The order entered may require either the petitioner or respondent, or both, to pay for costs of counsel. Upon a showing that there is an immediate and present danger of domestic violence to the petitioner the court may, if requested, order for a period not to exceed one (1) year that:

(a) Temporary custody of the minor children of the petitioner or of the parties be awarded to the petitioner or respondent if exercise of such jurisdiction is consistent with the provisions of section [32-11-204](#), Idaho Code, and consistent with prior custody orders entered by a court of competent jurisdiction unless grounds exist pursuant to section [32-717](#), Idaho Code;

(b) A party be restrained from committing acts of domestic violence;

(c) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(d) The respondent be ordered to participate in treatment or counseling services. The council on domestic violence, in recognition of the particular treatment requirements for batterers, shall develop minimal program and treatment standards to be used as guidelines for recommending approval of batterer programs to the court;

(e) Other relief be ordered as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;

(f) The respondent be required to pay service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee;

(g) The respondent be restrained from harassing, annoying, disturbing the peace of, telephoning, contacting, or otherwise communicating, directly or indirectly, with the petitioner and any designated family member or specifically designated person of the respondent's house-

hold, including the minor children whose custody is awarded to the petitioner;

(h) The respondent be restrained from entering any premises when it appears to the court that such restraint is necessary to prevent the respondent from contacting, harassing, annoying, disturbing the peace of or telephoning the petitioner or the minor children whose custody is awarded to the petitioner; and/or

(i) The respondent be restrained from coming within one thousand five hundred (1,500) feet or other appropriate distance of the petitioner, the petitioner's residence, the school or place of employment of the petitioner, or any specified place frequented by the petitioner and by any other designated family member or specifically designated person of the respondent's household, including the minor children whose custody is awarded to the petitioner.

(2) Immediate and present danger under this section includes, but is not limited to, situations in which the respondent has recently threatened the petitioner with bodily harm or engaged in domestic violence against the petitioner or where there is reasonable cause to believe bodily harm may result.

(3) No order made under this chapter shall in any manner affect title to real property.

(4) Relief shall not be denied because petitioner used reasonable force in self-defense against respondent, or because petitioner or respondent was a minor at the time of the incident of domestic violence.

(5) Any relief granted by the protection order, other than a judgment for costs, shall be for a fixed period not to exceed one (1) year; provided, that an order obtained pursuant to this chapter may, upon motion and upon good cause shown, continue for an appropriate time period as directed by the court or be made permanent if the requirements of this chapter are met, provided the order may be terminated or modified by further order of the court either on written stipulation filed with the court or on the motion of a party and after a hearing on the motion. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered.

(6) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

[39-6306, added 1988, ch. 341, sec. 1, p. 1013; am. 1989, ch. 136, sec. 4, p. 305; am. 1990, ch. 234, sec. 1, p. 667; am. 1991, ch. 300, sec. 1, p. 787; am. 1995, ch. 357, sec. 1, p. 1212; am. 2000, ch. 227, sec. 3, p. 640; am. 2006, ch. 287, sec. 1, p. 883.]

39-6306A. UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE PROTECTION ORDERS ACT. (1) Short Title. This section may be cited as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

(2) Definitions. As used in this section:

(a) "Issuing state" means the state whose tribunal issues a protection order.

(b) "Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.

(c) "Protected individual" means an individual protected by a protection order.

(d) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders.

(e) "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

(3) Judicial Enforcement of Order.

(a) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.

(b) A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

(c) A tribunal of this state shall enforce the provisions of a valid foreign protection order which govern custody and visitation if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

(d) A foreign protection order is valid if it:

- (i) Identifies the protected individual and the respondent;
- (ii) Is currently in effect;
- (iii) Was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and
- (iv) Was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the rights of the respondent to due process.

(e) A foreign protection order valid on its face is prima facie evidence of its validity.

(f) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

(g) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:

- (i) The respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and
- (ii) The tribunal of the issuing state made specific findings in favor of the respondent.

(4) Nonjudicial Enforcement of Order.

(a) A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a foreign protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this subsection, the foreign protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a foreign protection order is not required for enforcement.

(b) If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.

(c) If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

(d) Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to this section.

(5) Registration of Order.

(a) Any individual may register a foreign protection order in this state pursuant to section [39-6311](#), Idaho Code. To register a foreign protection order, an individual shall present a copy of a protection order which has been certified by the issuing state to a court of this state in order to be entered in the Idaho law enforcement telecommunications system pursuant to section [39-6311](#), Idaho Code.

(b) An individual registering a foreign protection order shall file with the court an affidavit by the protected individual stating that, to the best of the protected individual's knowledge, the order is currently in effect.

(c) A fee may not be charged for the registration of a foreign protection order.

(d) A foreign protection order registered under this section may be entered in any existing state or federal registry of protection orders, in accordance with applicable law.

(6) Immunity. This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission was done in good faith in an effort to comply with this section.

(7) Uniformity of Application and Construction. In applying and construing this section, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(8) Transitional Provision. This section applies to foreign protection orders issued before July 1, 2002, and to continuing actions for enforcement of foreign protection orders commenced before July 1, 2002. A request for enforcement of a foreign protection order made on or after July 1, 2002, for violations of a foreign protection order occurring before that date is governed by this section.

[39-6306A, added 2002, ch. 213, sec. 3, p. 588; am. 2003, ch. 213, sec. 1, p. 559.]

39-6307. SECURITY. Whenever a protection order is issued under this chapter, the issuing court may set a security amount for a violation of the order.

[39-6307, added 1988, ch. 341, sec. 1, p. 1015.]

39-6308. EX PARTE TEMPORARY PROTECTION ORDER. (1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary protection order based upon the affidavit submitted or otherwise shall hold a hearing which may be ex parte on the day a petition is filed or on the following judicial day to determine whether the court should grant an ex parte temporary protection order, pending a full hearing, and grant such other relief as the court deems proper, including an order:

- (a) Restraining any party from committing acts of domestic violence;
- (b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court;
- (c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;
- (d) Ordering other relief as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;
- (e) Restraining the respondent from contacting, molesting, interfering with or menacing the minor children whose custody is awarded to the petitioner;
- (f) Restraining the respondent from entering any premises when it appears to the court that such restraint is necessary to prevent the respondent from contacting, molesting, interfering with or menacing the petitioner or the minor children whose custody is awarded to the petitioner; and/or
- (g) Restraining the respondent from taking more than personal clothing and toiletries and any other items specifically ordered by the court.

(2) An ex parte hearing to consider the issuance of a temporary protection order may be conducted by telephone in accordance with procedures established by the Idaho supreme court.

(3) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened the petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(4) The court shall hold an ex parte hearing on the day the petition is filed or on the following judicial day.

(5) An ex parte temporary protection order shall be effective for a fixed period not to exceed fourteen (14) days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen (14) days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing. If the ex parte temporary protection order substantially affects the respondent's rights to enter the domicile or the respondent's right to custody or visitation of the respondent's children and the ends of justice so require, the respondent may move the court for an order shortening the time period within which the hearing required under the provisions of section [39-6306](#), Idaho Code, must be held. Motions seeking an order shortening the time period must be served upon the petitioner at least two (2) days prior to the hearing on the motion.

[39-6308, added 1988, ch. 341, sec. 1, p. 1016; am. 1989, ch. 136, sec. 5, p. 308; am. 1990, ch. 234, sec. 2, p. 668.]

39-6309. ISSUANCE OF ORDER -- ASSISTANCE OF PEACE OFFICER -- DESIGNATION OF APPROPRIATE LAW ENFORCEMENT AGENCY. When an order is issued or a foreign protection order is recognized under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the protection order. A certified copy of the order shall be prepared by the clerk for transmittal to the appropriate law enforcement agency as specified in section [39-6311](#), Idaho Code. Orders issued or foreign protection orders recognized under this chapter shall include an instruction to the appropriate law enforcement agency to execute, serve, or enforce the order.

[39-6309, added 1988, ch. 341, sec. 1, p. 1016; am. 1999, ch. 330, sec. 4, p. 890; am. 2002, ch. 213, sec. 4, p. 591.]

39-6310. ORDER AND SERVICE. (1) An order issued under this chapter along with a copy of the petition for a protection order, if the respondent has not previously received the petition, shall be personally served upon the respondent, except as provided in subsections (6), (7) and (8) of this section.

(2) A peace officer of the jurisdiction in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party at the petitioner's own expense.

(3) If service by a peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter and a copy of the petition for a protection order, if the respondent has not previously received the petition, forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the peace officer cannot complete service upon the respondent within ten (10) days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court and receives a copy of the order, the necessity for further service is waived and proof of service of that order is not necessary.

(7) If a party has appeared in person before the court and has waived personal service, the clerk of the court shall complete service of any notice of hearing or orders or modifications by certified mail to the party's address as shown on the court petition which resulted in the issuance of the order or modification. Parties shall at all times keep the court informed of their current mailing address.

(8) If a foreign protection order is registered with the court under section [39-6306A](#), Idaho Code, the necessity for further service is waived and proof of service of that order is not necessary.

[39-6310, added 1988, ch. 341, sec. 1, p. 1017; am. 1996, ch. 236, sec. 1, p. 766; am. 1997, ch. 69, sec. 1, p. 145; am. 1999, ch. 330, sec. 5, p. 890; am. 2000, ch. 72, sec. 1, p. 154; am. 2002, ch. 213, sec. 5, p. 591.]

39-6311. ORDER -- TRANSMITTAL TO LAW ENFORCEMENT AGENCY -- RECORD IN IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM -- ENFORCEABILITY. (1) The orders issued under sections [39-6306](#) and [39-6308](#), Idaho Code, or foreign protection orders recognized under section [39-6306A](#), Idaho Code, shall be in a form approved by the supreme court of the state of Idaho.

(2) (a) A copy of a protection order granted or a foreign protection order recognized under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

(b) Upon receipt of the order, the law enforcement agency shall forthwith enter the order and its expiration date into the Idaho public safety and security information system available in this state used by law enforcement agencies to list outstanding warrants. Notification of service as required in section [39-6310](#), Idaho Code, shall also be entered into the Idaho public safety and security information system upon receipt. Entry into the Idaho public safety and security information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. Renewals of the order shall be recorded in the same manner as original orders. The information entered shall specifically state that the protection order is civil in nature. If the appropriate law enforcement agency determines that the service information sheet is incomplete or cannot be entered into the Idaho public safety and security information system upon receipt, the service information sheet shall be returned to the clerk of the court. The clerk of the court shall then notify the petitioner of the error or omission.

(3) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident of domestic violence may be informed of the existence and terms of such protection order.

(4) A protection order shall remain in effect for the term set by the court or until terminated by the court. A protection order may, upon motion and upon good cause shown, be renewed for additional terms not to exceed one (1) year each if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by

the party against whom the order was entered. If the petitioner voluntarily and without duress consents to the waiver of any portion of the protection order vis-a-vis the respondent pursuant to section [39-6313](#), Idaho Code, the order may be modified by the court.

[39-6311, added 1988, ch. 341, sec. 1, p. 1017; am. 1989, ch. 136, sec. 6, p. 310; am. 1990, ch. 293, sec. 1, p. 813; am. 1991, ch. 300, sec. 2, p. 788; am. 1995, ch. 357, sec. 2, p. 1214; am. 1996, ch. 362, sec. 1, p. 1218; am. 1999, ch. 330, sec. 6, p. 891; am. 2002, ch. 213, sec. 6, p. 592; am. 2013, ch. 187, sec. 6, p. 452.]

39-6312. VIOLATION OF ORDER -- PENALTIES. (1) Whenever a protection order is granted and the respondent or person to be restrained had notice of the order, a violation of the provisions of the order or of a provision excluding the person from a residence shall be a misdemeanor punishable by not to exceed one (1) year in jail and a fine not to exceed five thousand dollars (\$5,000), ten dollars (\$10.00) of which shall be deposited to the credit of the domestic violence project account created in section [39-5212](#), Idaho Code.

(2) A peace officer may arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order, if the person restrained had notice of the order.

(3) The person against whom a protection order has been issued by an out-of-state court is presumed to have notice of the order if the victim presents to the officer proof of service of the order.

[39-6312, added 1988, ch. 341, sec. 1, p. 1018; am. 1990, ch. 234, sec. 3, p. 670; am. 1991, ch. 169, sec. 1, p. 409; am. 1999, ch. 330, sec. 7, p. 892.]

39-6313. ORDER -- MODIFICATION -- TRANSMITTAL. Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing protection order. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modification or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the Idaho law enforcement telecommunications system.

[39-6313, added 1988, ch. 341, sec. 1, p. 1018.]

39-6314. PEACE OFFICERS -- IMMUNITY. No peace officer may be held criminally or civilly liable for actions or omissions in the performance of the duties of his office under this chapter, including the enforcement of out-of-state protection orders, if the peace officer acts in good faith and without malice.

[39-6314, added 1988, ch. 341, sec. 1, p. 1018; am. 1999, ch. 330, sec. 8, p. 892.]

39-6315. PROCEEDINGS ADDITIONAL. Any proceedings under this chapter are in addition to other civil or criminal remedies.

[39-6315, added 1988, ch. 341, sec. 1, p. 1018.]

39-6316. LAW ENFORCEMENT OFFICERS -- TRAINING, POWERS, DUTIES. (1) All training provided by the peace officers standards and training academy relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) When a peace officer responds to a domestic violence call, the officer shall give a written statement to victims which alerts the victim to the availability of a shelter or other resources in the community, and give the victim a written notice provided by the Idaho state police substantially stating the following:

IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in magistrate court requesting an order for protection from domestic abuse which could include any of the following: (a) an order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available from the clerk of the district court. The resources available in this community for information relating to domestic violence, treatment of injuries and places of safety and shelters are: (For safety reasons, inclusion of shelter/safe house addresses is not necessary). You also have the right to sue for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other out-of-pocket expenses for injuries sustained and damage to your property. This can be done without an attorney in small claims court if the total amount claimed is less than five thousand dollars (\$5,000).

(3) The peace officer shall make every effort to arrange, offer, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(4) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten (10) days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

[39-6316, added 1988, ch. 341, sec. 1, p. 1018; am. 1990, ch. 234, sec. 4, p. 670; am. 1992, ch. 74, sec. 4, p. 212; am. 2000, ch. 250, sec. 12, p. 708; am. 2000, ch. 469, sec. 100, p. 1553; am. 2006, ch. 263, sec. 5, p. 817.]

39-6317. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

[39-6317, added 1988, ch. 341, sec. 1, p. 1019.]

39-6318. ORDER FOR TRANSFER OF WIRELESS TELEPHONE SERVICE. (1) In order to ensure that a requesting party can maintain an existing wireless telephone number and the wireless numbers of any minor children in the care of the requesting party, a court may issue an order, after notice and a hearing, directing a wireless telephone service provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers to the requesting party, if the requesting party is not the account holder.

(2) (a) The order transferring billing responsibility for and rights to the wireless telephone number or numbers to a requesting party shall be a separate order that is directed to the wireless telephone service provider. The order shall list the name and billing telephone number of the account holder, the name and contact information of the person to whom the telephone number or numbers will be transferred and each telephone number to be transferred to that person. The court shall ensure that the contact information of the requesting party is not provided to the account holder.

(b) The order shall be served on the wireless service provider's agent for service of process listed with the secretary of state.

(c) Where the wireless service provider cannot operationally or technically effectuate the order due to certain circumstances including, but not limited to, any of the following, the wireless service provider shall notify the requesting party when:

- (i) The account holder has already terminated the account;
- (ii) Differences in network technology prevent the functionality of a device on the network; or
- (iii) There are geographic or other limitations on network or service availability.

(3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone number or numbers to a requesting party, pursuant to subsection (2) of this section, by a wireless telephone service provider, the requesting party shall assume all financial responsibility for the transferred wireless telephone number or numbers, monthly service costs and costs for any mobile device associated with the wireless telephone number or numbers.

(b) This section shall not preclude a wireless service provider from applying any routine and customary requirements for account establishment to the requesting party as part of this transfer of billing responsibility for a wireless telephone number or numbers and any devices attached to that number or numbers including, but not limited to, identification, financial information and customer preferences.

(4) This section shall not affect the ability of the court to apportion the assets and debts of the parties as provided for in law or the ability to determine the temporary use, possession and control of personal property.

(5) No cause of action shall lie against any wireless telephone service provider, its officers, employees or agents for actions taken in accordance with the terms of a court order issued pursuant to the provisions of this section.

[39-6318, added 2018, ch. 227, sec. 2, p. 518.]